

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2010-132-W

IN RE:

Application of May River Water)
Company, Inc. for adjustment of)
rates and charges for the provision)
of water service.)
_____)

REBUTTAL TESTIMONY OF
THOMAS A. SMITH, III

**Q. ARE YOU THE SAME THOMAS A. SMITH, III THAT HAS PREFILED
DIRECT TESTIMONY IN THIS CASE?**

A. Yes, I am.

**Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THIS
PROCEEDING, MR. SMITH?**

A. The purpose of my rebuttal testimony is to sponsor the application filed by May River Water Company, Inc. (“May River”) for an adjustment of certain rates and charges for the provision of water services and to respond to the testimony of Mr. Joseph Highsmith, witness for the May River Property Owners’ Association (“Association”). As well, I will address the recommendations made by the South Carolina Office of Regulatory Staff (“ORS”) witnesses.

**Q. YOU HAVE REVIEWED MR. HIGHSMITH’S TESTIMONY, IS THAT
CORRECT?**

A. Yes, I have.

1 **Q. WOULD YOU PLEASE DISCUSS THE PORTION(S) OF MR. HIGHSMITH'S**
2 **TESTIMONY WITH WHICH YOU DO NOT AGREE?**

3 A. Certainly. Mr. Highsmith testifies that, were the Association to operate the
4 system itself, it would be able to do so at a cost less than that currently incurred by May
5 River. In support of his testimony, Mr. Highsmith offers several quotes from companies
6 who propose to provide various services relative to the operation of the May River water
7 system. Although I have not communicated with these companies directly, a review of
8 their quotes reflects that certain costs have not been included in their proposals.
9

10 **Q. COULD YOU IDENTIFY THOSE COSTS WHICH YOU BELIEVE THE**
11 **COMPANIES DID NOT CONSIDER?**

12 A. Yes. First, Exhibit JH-9 includes an estimate for "Maintenance & Repairs
13 (including 24/7 on call) for the annual cost of \$1,200." Mr. Highsmith's own quotes
14 reflect that this is not the case.
15

16 **Q. CAN YOU ELABORATE ON THAT LAST STATEMENT?**

17 A. It would appear that Mr. Highsmith derived his estimate for Maintenance and
18 Repairs from the quote furnished by Paul Good Plumbing, Inc. which is included with his
19 testimony as Exhibit JH-4. However, a review of that quote indicates that Mr. Good has
20 only offered to "be on call 24/7" at a cost of \$100.00 per month. Mr. Good specifically
21 indicates that "[a]ny work done will be \$75.00 per man plus material and sales tax."
22 Depending on the number of instances in which Mr. Good is called upon and the nature
23 of the work, the cost of his services would substantially increase the cost of maintaining
24 the water system. Therefore, it is clear that any work performed by Mr. Good for
25 maintenance and repair of the system will far exceed the \$100.00 per month Mr.
26 Highsmith suggests is the only necessary cost to operate and maintain the system.
27

28 **Q. DO YOU HAVE ANY OTHER CONCERNS WITH MR. GOOD'S QUOTE?**

29 A. Yes. I would like to point out to the Commission that Mr. Good is a customer of
30 May River and is, presumably, a member of the May River Property Owners'

1 Association. Therefore, I believe he is incented to submit a reduced rate for the
2 maintenance and repair of the system and that the rates he suggests may not be available
3 in the open marketplace. The quotes I provided with my direct testimony reflect prices
4 which are obtainable through arms-length transactions and demonstrate that the
5 management fee charged by WUM is reasonable.
6

7 **Q. DO YOU HAVE OTHER CONCERNS WITH MR. HIGHSMITH'S QUOTES?**

8 A. Yes. Mr. Highsmith's quotes are all premised upon the Association operating the
9 system itself. While I am not an attorney, it is my understanding that property owners'
10 associations, such as the Association, may petition to be exempt from regulation by the
11 Public Service Commission. This alone would reduce the cost to operate the system.
12

13 **Q. WHY WOULD REGULATORY EXEMPTION REDUCE COSTS?**

14 A. As the Commission is aware, its regulations require public utilities providing
15 water services to the public for compensation to comply with numerous regulatory
16 requirements. As reflected in the Office Business Compliance Review attached as
17 Exhibit HKM-1 of ORS Witness Hannah Majewski, May River is required, among other
18 things, to:

- 19 • Maintain all records and reports for examination in accordance with R.
20 103-710
- 21 • Maintain complaint records in accordance with R. 103-716
- 22 • Make utility rates, rules and regulations, maps and plans available for
23 public inspection in accordance with R. 103-730
- 24 • Establish procedures to assure that every customer making a complaint is
25 made aware that the utility is under the jurisdiction of the Commission and
26 that the customer has the right to register the complaint in accordance with
27 R. 103-730
- 28 • Handle bill adjustments in accordance with R. 103-732
- 29 • Establish a policy for termination of customers in accordance with R. 103-
30 735

- Send notices to customers prior to termination in accordance with R. 103-735
- File notices with the Commission of any violation of PSC or DHEC rules which affect service in accordance with R. 103-714.C.
- Have adequate means where by each customer can contact the water utility at all hours in case of emergency or unscheduled interruptions of service in accordance with R. 103-730.
- Maintain records of any condition resulting in any interruption of service affecting its entire system or major division in accordance with R. 103-714
- Advise the Commission of the person who should be contacted in connection with general management duties, customer relations, engineering operations and emergencies during non-office hours.
- Maintain maps on file with the Commission
- Maintain a documented safety program
- Maintain a documented emergency response plan
- Maintain a documented preventative maintenance plan
- Submit a current annual report

In order to comply with these regulations, May River must employ personnel to handle these functions. If the Association does not intend to undertake these obligations, then its costs would necessarily be lower.

Q. COULD YOU DESCRIBE SOME OF THE EXPENSES INCURRED BY MAY RIVER IN THE PERFORMANCE OF THESE DUTIES?

A. Certainly. By way of an example, ORS's audit reflects the allowance of approximately \$15,000 for professional contract expenses. These expenses include WUM's costs of various operating personnel, including accounting personnel. As the Commission is aware, water utilities subject to the Commission's jurisdiction are required to maintain their books and records in a specific format and maintain significant records of its operations. While these records enable the Commission and ORS to perform audits and to ensure that the utilities are providing adequate service to their

1 customers and operating their systems safely, maintaining them takes time and requires
2 the utility to hire personnel who have the experience and knowledge to handle such
3 matters. The Company must also provide a location for these employees to work and to
4 house these necessary records, thus the basis for the “rents” to which Mr. Highsmith
5 seems to take exception. I would note that Mr. Highsmith’s quote from Wade &
6 Associates, LLC, included as Exhibit JH-2, is only for billing and that “[a]ny services not
7 listed . . . will be billed to the regime at a rate of \$50 per hour.” Therefore, Mr.
8 Hightower’s quotes again reflect that additional accounting services required to maintain
9 books and records in compliance with the Commission’s regulations would add
10 substantial costs to Mr. Hightower’s estimates.

11 In addition, May River is required to maintain a performance bond in the amount
12 of \$100,000 and remit payment for the Gross Receipts tax due in South Carolina.
13 Finally, May River incurs expenses in participating in proceedings before and making
14 necessary filings with the Commission, such as this rate case. Although an exempt
15 Association would not be subject to these costs and would not incur expenses related to
16 Commission filings, May River is required to do so. However, Mr. Hightower has not
17 accounted for these necessary expenses.

18
19 **Q. ARE THERE OTHER REGULATORY COSTS INCURRED BY MAY RIVER?**

20 A. Yes. May River personnel routinely interact with DHEC and the EPA to ensure
21 its compliance with environmental regulation and the time associated with such
22 interactions result in additional expenses. Although the Association would propose to
23 hire outside providers to furnish the services necessary to operate the system, the
24 Association would also have to interact with these regulatory entities and, if they remain
25 a regulated entity, with ORS and the Commission on a routine basis. It does not appear
26 that the service providers from which Mr. Highsmith obtained his estimates propose to
27 engage in such necessary interactions.

1 **Q. WHAT OTHER ISSUES DO YOU SEE WITH MR. HIGHSMITH'S QUOTES?**

2 A. The quotes the Association solicited from Chuck Williams Company, Lawson
3 Environmental, and Paul Good Plumbing also do not reflect whether the costs include the
4 availability of certain equipment necessary to maintain the proper functioning of the May
5 River water system. WUM has available to it several pieces of equipment, including
6 backhoes, trenchers, boom trucks, heavy-duty vehicles and the like, all of which are
7 necessary to the proper operation of a water system. For example, if a pump goes out on
8 the well serving May River, a boom truck would be necessary to for its replacement. To
9 the extent that these types of equipment would be needed, the Association would incur
10 additional costs to either acquire or rent this equipment. Additionally, rental companies
11 may not be open for business on the weekend or after normal business hours. Therefore,
12 the water system may be unavailable for several hours, if not days, while the necessary
13 equipment is acquired.

14
15 **Q. DOES WUM KEEP REPLACEMENT PARTS AND EQUIPMENT IN STOCK?**

16 A. Yes. WUM has an inventory of pump motors, valves, piping, meters and other
17 similar parts and facilities. Therefore, if a problem arises, WUM is able to quickly
18 correct the problem without having to order the necessary parts. In my experience,
19 plumbers, such as the one Mr. Highsmith purports to rely upon to run the system for the
20 Association, do not keep these types of parts in regular stock which are unique to water
21 systems; rather, these parts would likely have to be ordered on an as needed basis which
22 would prolong the duration of any outages on the water system. Again, public water
23 utilities, such as May River, must maintain these types of inventories in order to
24 minimize the time of any service interruptions and to ensure quality service to its
25 customers. WUM's and May River's history with operating water systems give it the
26 experience to know what types of parts need to be kept in stock. I, therefore, believe that
27 Mr. Highsmith's suggestion that a plumbing company can provide the same level of
28 service is simply not comparable.

1 **Q. DO THE ASSOCIATION'S QUOTES ACCURATELY REFLECT THE COSTS**
2 **OF A REGULATED PUBLIC UTILITY OPERATING THE SYSTEM?**

3 A. No, they do not. Notwithstanding the fact that the Association has omitted certain
4 necessary costs and obtained quotes from its own membership which I believe do not
5 reflect market prices, WUM simply cannot provide water services based on the level of
6 expenses attested to by Mr. Highsmith. While the Association may be able to obtain
7 some services at a lesser cost, these services are not comparable to those provided by
8 May River and would not include any expenses associated with the regulatory
9 requirements of this Commission which May River necessarily incurs. Simply because
10 the Association, as an exempt organization, would not have to incur these costs does not
11 mean that these costs borne by May River, as a non-exempt organization, for these
12 services are unreasonable or imprudent. Therefore, I do not believe Mr. Highsmith's
13 financial estimates reflect an "apples to apples" comparison and they should not be
14 considered by the Commission.
15

16 **Q. DO YOU, THEREFORE, BELIEVE THAT MR. HIGHSMITH'S QUOTES ARE**
17 **RELEVANT FOR DETERMINING MAY RIVER'S ALLOWABLE OPERATING**
18 **EXPENSES?**

19 A. No, I do not. I would first point out that ORS's audit demonstrated that May
20 River's allowable expenses during the test year were \$16,681 more than those proposed
21 by Mr. Highsmith. However, Mr. Highsmith's Exhibit JH-9 does not reflect that the
22 Association would incur costs for these regulatory functions should it acquire the system.
23 Therefore, it appears that the Association would not intend to perform those duties
24 required of regulated utilities. While the option to avoid these obligations may be
25 available to the Association should it seek an exemption, May River simply is not able to
26 do the same. May River is required to fulfill its regulatory obligations and is entitled to
27 recover its expenses incurred for so doing. Because Mr. Highsmith is essentially
28 comparing the costs of operating a system exempt from regulation to one which is subject
29 to the Commission's jurisdiction, his comparison is simply not appropriate. The quotes
30 he provides do not reflect all of May River's services necessarily provided to operate the

1 system in compliance with the regulatory requirements and do not account for May
2 River's reasonable and prudently incurred expenses. Therefore, his quotes are not
3 relevant to an analysis of the prudence of the expenses incurred by May River.
4

5 **Q. WHAT COMMENTS DO YOU HAVE ON MR. HIGHSMITH'S STATEMENT**
6 **THAT THE ASSOCIATION WOULD BE WILLING TO PURCHASE THE**
7 **SYSTEM?**

8 A. In the previous year, May River has engaged in discussions with the Association
9 about their purchase of the system. However, the Association did not respond to May
10 River's offer to sell for a substantial period of time. After several months, May River
11 was placed in the position of needing to request rate relief to continue operating the
12 system. This need is reflected in May River's Application and in the results of ORS's
13 audit which demonstrates that, based on the Company's allowable operating expenses,
14 May River's current rates result in an operating margin of -93%. May River is certainly
15 willing to sell the system to the Association for a reasonable price. However, if May
16 River is to continue operating the system, significant rate relief is warranted to enable the
17 Company to recover its costs.
18

19 **Q. MR. HIGHSMITH REFERENCED A DHEC WARNING LETTER INCLUDED**
20 **AS EXHIBIT JH-10 TO HIS DIRECT TESTIMONY; COULD YOU RESPOND**
21 **TO HIS CONCERNS ABOUT THIS LETTER?**

22 A. Yes. As indicated in the letter, DHEC was concerned that the Company was not
23 performing inspections on a weekly basis as required. May River investigated the
24 situation and determined that, although our operators were making inspections, they were
25 not maintaining sufficient records of their visits to the well system. As DHEC notes,
26 May River provided a copy of the well head inspection log which demonstrated the
27 inspections and, as a result, DHEC determined that only a Warning Letter was
28 appropriate regarding the violations. May River has since addressed this issue with its
29 operators and a more detailed log is being kept on a weekly basis. I would like to point
30 out that this issue did not affect the quality of the drinking water supplied to the May

1 River subdivision.

2

3 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

4 A. Yes, it does.